

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JASON R. GARDNER,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:03CV0085 RWS
)	
LARRY ROWLEY,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This matter is before the Court on Jason Gardner's petition for writ of habeas corpus under 28 U.S.C. § 2254 [#1]. Pursuant to 28 U.S.C. § 636(b), this matter was referred to United States Magistrate Judge Thomas C. Mummert, III, who filed his Report and Recommendation on March 3, 2006 [#17]. It is Judge Mummert's recommendation that the petition be denied and that no certificate of appealability be issued. Gardner, through counsel, timely filed his objections to the Report and Recommendation [#19]. Under 28 U.S.C. § 636(b)(1)(C), I am required to review de novo those portions of the Report and Recommendation to which Gardner objects.

I have conducted a de novo review of all matters relevant to the petition. Based on that review, I will adopt and sustain Judge Mummert's Report and Recommendations and will deny Gardner's petition. Finally, as Gardner has not

made a substantial showing of the denial of a constitutional right, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that James Purkett, Superintendent of Eastern Reception, Diagnostic and Correctional Center, be substituted for Larry Rowley as proper party respondent.

IT IS FURTHER ORDERED that Gardner's petition for habeas corpus under 28 U.S.C. § 2254 [#1] is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 30th Day of March, 2006.

A handwritten signature in dark ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE